Minnesota Pollution Control Agency

Environmental Analysis and Outcomes Division

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendments to Rules Governing Air Quality, Minnesota Rules, Chapter 7005 Definitions and Abbreviations, Chapter 7007 Air Emissions Permits, Chapter 7008 Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities, Chapter 7011 Standards for Stationary Sources, and Chapter 7019 Emission Inventory Requirements; and Repeal of Minnesota Rules, parts 7008.0100, subparts 2a and 5; and 7008.2250; Revisor’s ID Number RD4429

Plain English Summary. This notice is the Minnesota Pollution Control Agency’s (MPCA) legal notice of its intent to adopt amended air quality rules. The purpose of these rules, known as the “exempt source/conditionally insignificant activities rules” is to clarify permit requirements for small sources of air emissions and update rules governing the treatment of small air pollution emitting activities (“insignificant activities” and “conditionally insignificant activities”). The proposed rule amendments also create new categories of conditionally exempt sources, such as auto-body refinishing facilities and woodworking facilities. Facilities that meet the applicable technical standards in rule would be exempt from obtaining an air emissions permit. In addition, the proposed rule amendments align state rules with federal requirements for affected facilities to ensure the rules limiting air emissions are federally enforceable.

This notice provides an opportunity for public comment and input on the proposed rules. Anyone who would like to comment on the proposed rule language must submit written comment or a written request for a hearing on the proposed rules by the deadline identified below. The Subject of Rules section provides further description of these proposed rules. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

Introduction. The MPCA intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. You may submit written comment on the proposed rules and may submit a written request that MPCA hold a hearing on the proposed rules until 4:30 p.m. on Tuesday, May 29, 2018.

Public Information Meeting. The MPCA has scheduled a public information meeting on the proposed rules. The meeting will be held at the MPCA St. Paul office Board Room and via Skype on Thursday, May 10, 2018, 1:00 - 3:30 p.m. The purpose of the meeting is to provide an overview of the proposed rules so that interested persons are able to provide written comment on the proposed rules and this rulemaking. Information about the public information meeting is available on the rulemaking webpage at https://www.pca.state.mn.us/air/amendments-air-quality-rules-exempt-sourceconditionally-insignificant-activities.

Availability of Rules. A copy of the proposed rules is published in the State Register after this notice, or they can be viewed on the rulemaking webpage identified above. A free copy of the proposed rules is also available upon request by contacting the MPCA contact person listed below. One copy per request will be sent.
**Alternative Format/Accommodation.** Upon request, the information in this notice can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the MPCA contact person at the address or telephone number listed below.

**Subject of Rules.** The MPCA proposes to amend several chapters of Minnesota’s air quality rules to clarify and update rules governing the treatment of small air pollution emitting activities. The proposed rules restructure the insignificant activities lists to provide greater clarity on how the rules are applied, create new categories of conditionally exempt sources such as auto-body refinishing facilities and woodworking facilities, and align state rules with federal requirements for affected facilities to ensure the rules limiting air emissions are federally enforceable.

Historically, the MPCA created a hierarchy of air emission permits to incentivize the small source facilities, such as auto-body refinishing facilities, to reduce their air emissions through more streamlined compliance requirements for low air emissions. The proposed rules will continue to streamline the administrative requirements for lower emitting small source facilities while complying with applicable state and federal requirements.

Described below are the main parts of the proposed rules. For more information about the proposed rules, please refer to the statement of need and reasonableness (SONAR) which is available as stated below.

- **Chapter 7007.** Changes to the lists of insignificant activities in *Minnesota Rules*, part 7007.1300. These are activities not required to be listed in a permit application (subpart 2), activities required to be listed in a permit application but do not need emissions calculations submitted unless requested by the MPCA (subpart 3), and activities required to be listed in a federal Part 70 permit application (subpart 4). Changes include adding and deleting activities, and moving certain activities from the subpart 3 list to the subpart 2 list.

- **Chapter 7008.** Changes to create four new categories of conditionally exempt stationary sources where emissions primarily come from one type of activity. Auto-body refinishing facilities, coating facilities, woodworking facilities, and insignificant facilities that meet applicable technical standards would be exempt from obtaining an air emissions permit. Changes to the existing categories of conditionally exempt sources, gasoline service stations and concrete manufacturing, to align with the rule structure for the new categories.

- **Chapter 7008.** Changes to conditionally insignificant activities materials usage and particulate matter-only emitting, in *Minnesota Rules*, parts 7008.4100 and 7008.4110. Permit applicants rely on the rules to claim that particulate matter emissions at the source have been sufficiently limited to make the source insignificant. The proposed rules align state rules with federal requirements for affected facilities to ensure the rules limiting air emissions are federally enforceable. Changes include adding new federally enforceable numeric emissions limits for conditionally insignificant activities covered under *Minnesota Rules*, part 7008.4110, activities considered insignificant for purposes of permitting, and requirements for calculating particulate matter emissions for these activities.

- **Chapters 7005, 7007, 7011, and 7019.** Small housekeeping changes to clarify or align state rules with federal permitting requirements or state statute changes. Chapter 7005 changes relate to definitions. Chapter 7007 includes changes to clarify and update rules related to permit reissuance, electronic posting of public notices to accommodate technology, and filling gaps in general and
capped permit rules. Chapter 7011 changes align state rules with state statutes. Chapter 7019 is a minor editing change.

**Statutory Authority.** *Minnesota Statutes*, section 116.07, subdivision 4 authorizes the MPCA to adopt rules for the prevention, abatement, and control of air pollution.

**Public Comment.** You have until **4:30 p.m. on Tuesday, May 29, 2018**, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Submit written comments to the Office of Administrative Hearings Rulemaking e-Comments website at [https://minnesotaoah.granicusideas.com](https://minnesotaoah.granicusideas.com). Any questions about submitting comments via the Rulemaking e-Comments website should be directed to Katie Lin, Office of Administrative Hearings; telephone 651-361-7911 and katie.lin@state.mn.us. All comments received are public and will be available for review at the Office of Administrative Hearings.

The MPCA encourages comment. Your comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. You must make any comments that you have about the legality of the proposed rules during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the MPCA hold a public hearing on the proposed rules. You have until **4:30 p.m. on Tuesday, May 29, 2018**, to submit your written request for a hearing to the Office of Administrative Hearings Rulemaking e-Comments website at [https://minnesotaoah.granicusideas.com](https://minnesotaoah.granicusideas.com). Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the MPCA cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, the MPCA will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The MPCA reserves the option to remove any section of the rule that may be controversial and to proceed without a hearing on the noncontroversial parts of the proposed rules.

**MPCA Contact Person.** The MPCA contact person is Mary H. Lynn at the MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone 651-757-2439; and mary.lynn@state.mn.us. You may also call the MPCA at 651-296-6300 or 800-657-3864 or use your preferred relay service info.pca@state.mn.us.

**Modifications.** The MPCA may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the MPCA, and the adopted rules may not be substantially different than these proposed rules, unless the MPCA follows the procedure under *Minnesota Rules*, part 1400.2110.
Statement of Need and Reasonableness. The SONAR summarizes the justification for the proposed rules, including a description of who the proposed rules affect and an estimate of the probable cost of the proposed rules. A print copy is available for the cost of reproduction by contacting the MPCA contact person listed above. The MPCA posted the SONAR on the exempt source/conditionally insignificant activities rule webpage at https://www.pca.state.mn.us/air/amendments-air-quality-rules-exempt-sourceconditionally insignificant-activities.

Lobbyist Registration. Minnesota Statutes, chapter 10A, requires each lobbyist to register with the Minnesota Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board located at 190 Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-539-1180 or 1-800-657-3889.

Adoption and Review of Rules. If no hearing is required, the MPCA may adopt the rules after the end of the comment period. The MPCA will then submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the MPCA submits the rules to the Office of Administrative Hearings. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the MPCA to receive notice of future rule proceedings, submit your written request to the MPCA contact person listed above.

Date 4/9/18

John Linc Stine, Commissioner
Minnesota Pollution Control Agency